IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
CHAMBER SUMMONS NO. 1117 OF 2005
IN
SUMMONS FOR JUDGMENT NO. 552 OF 1996
IN
SUMMARY SUIT NO.3027 OF 1995

Cotton Market Labour Board for
Greater Bombay, Thane & Raigad
Districts .....Plaintiffs

Versus

The Cosmos Co-op. Bank Ltd., Pune .....Defendant

.....

Smt. Lata S. Desai for the Plaintiffs

.....

CORAM : SMT. NISHITA MHATRE, J.

DATE : DECEMBER 13, 2005

P.C.

1. This Chamber Summons has been moved for permission to withdraw the sum of Rs.55,40,000/- deposited by the Defendants in this Court together with interest from 8th February, 1990 till date. By an order dated 23rd November 1998, the Defendants were granted conditional leave to defend the suit on their depositing the amount of Rs.55,40,000/-. This amount was further directed to be invested in a fixed deposit, initially, for 39 months, to be renewed thereafter. It appears that an amount of Rs.6,92,500/- was deposited on 8th February, 1999. Simultaneously, another cheque for Rs.48,47,500/- was also deposited. However, it appears

that the Office has invested only an amount of Rs.6,99,500/- in a Nationalised Bank, in accordance with the order of this Court. The amount of Rs.48,47,500/- remained uninvested. This amount was invested in a Nationalised Bank in fixed deposit only on 5th February 2005 by the Prothonotary and Senior Master, High Court, Mumbai i.e. 6 years after the deposit was made. An explanation therefore was sought as to the non investment of the amount as per the orders of this Court. A detailed report has been submitted by the Registrar, Original Side, Prothonotary and Senior Master dated 6th December 2005 stating that it was on account of the negligence of the clerks in the C.S. Department that this default has occurred. Show cause notices have already been issued to the concerned clerks and a departmental enquiry is to be held against them.

2. This is a most unfortunate circumstance where the amount which was deposited as the Mathadi workers's retiral dues has remained uninvested due to no fault of the workers or the parties to the suit. However, since the amount of the retiral dues of the Mathadi worker's, is required to be paid, in my view, it will be appropriate to grant the Chamber Summons.

3. Chamber Summons is accordingly made absolute in terms of prayer(a).